

the other hand, employees with far more sophisticated, challenging, and lucrative jobs may be nonexempt simply because they work on production tasks. The regulations reasonably expect an administrative employee to exercise a certain level of discretion and independent judgment, and my legislation would not alter that requirement. There is no reason to think, however, that a production or management label on the object of an employee's discretion or judgment has anything to do with that employee's professionalism, or the need for FLSA protections. Therefore, my bill eliminates the requirement that the employee's exercise of discretion and judgment be directly related to management policies or general business operations of (the) employer or (the) employer's customers.

Third, and perhaps most significantly, my legislation would directly reverse the recent trend toward questionable overtime awards for highly compensated employees by creating an income threshold exempting the highest stratum of the workforce from FLSA scrutiny. There is no reason that the FLSA, which was passed to protect laborers who toil in factory and on farm helpless victims of their own bargaining weakness should ever be interpreted to protect workers making high five-figure or six figure incomes. Yet, without considering the policy implications, courts are reaching such conclusions on an alarmingly frequent basis.

A worker drawing a large salary must perform some valuable job duty for an employer. Why, then, should that employer have to satisfy a complex set of artificial and archaic duties tests to prove that the employee is valuable? A worker drawing a large salary also must possess considerable bargaining leverage. Why then, should employers be forced, regardless of the employee's needs or preferences, to calculate paychecks only in the inflexible manner dictated by government salary basis regulations?

The FLSA, in nearly six decades, has strayed from its laudable goal of protecting the poorest and weakest laborers from workplace abuses. The Department of Labor, and the courts, need to refocus their efforts in this direction. My proposal would go a long way—both by directly exempting highly paid employees and by making long overdue adjustments to the salary and duties tests—toward providing this new direction. I ask that a copy of the bill be printed in the RECORD at this point.

A BILL

To amend the Fair Labor Standards Act of 1938 to prescribe a salary base for an exemption of an employee from the wage requirements of such Act and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(A) SHORT TITLE.—This Act may be cited as the "White Collar Reform Act".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provisions, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938.

SEC. 2. SALARY EXEMPTION.

(a) EXEMPTION AMENDMENT.—Section 13(a)(1) (29 U.S.C. 213(a)(1)) is amended by adding after "(1)" the following: "any employee whose rate of annual compensation is not less than \$40,000 or".

(b) DEFINITION.—Section 13 (29 U.S.C. 213) is amended by adding at the end the following:

"(k) For purposes of subsection (a)(1)—

"(1) the term 'annual compensation' includes all amounts reportable to the Internal Revenue Service for Federal income tax purposes by an employee's employer;

"(2) an employee's rate of annual compensation shall be determined without regard to the number of hours worked by the employee and shall be prorated for any employee who does not work for an employer during an entire calendar year to reflect annual compensation which would have been earned if the employee had been compensated at the same rate for the entire calendar year; and

"(3) reasonably anticipated bonuses, commissions, or other elements of annual compensation not paid on an evenly distributed basis throughout the year may be prorated over an entire calendar year or over the portion of the calendar year worked by the employee for the employer in determining the employee's rate of annual compensation."

SEC. 3. ADMINISTRATIVE EXEMPTION EMPLOYEE.

Section 13 (29 U.S.C. 213), as amended by section 2(b), is amended by adding at the end the following:

"(l) The relationship between an employee's job duties and the management policies or general business operations of the employee's employer or employer's customers shall not be considered in determining whether such employee is employed in a bona fide administrative capacity for purposes of subsection (a)(1)."

SEC. 4. EFFECT OF CERTAIN SALARY PRACTICES.

Section 13 (29 U.S.C. 213), as amended by section 3, is amended by adding at the end the following:

"(m)(1) The fact that an employee is subject to deductions from pay for absences of less than a full day or of less than a full pay period shall not be considered in determining whether such employee is an exempt employee described in subsection (a)(1) when there has not been an actual reduction in pay. For purposes of this paragraph, the term 'actual reduction in pay' does not include any reduction in accrued pay leave or any other practice that does not reduce the amount of the employee's pay for a period.

"(2) The payment of overtime compensation or other additions to compensation based on hours worked in excess of a daily or weekly amount shall not be considered in determining if the employee qualifies for the exemption under subsection (a)(1)."

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to any civil action involving section 13(a)(1) of the Fair Labor Standards Act of 1938 which has not reached final judgment before such date.

PROFESSOR HOFFMAN, YOU HAVE MADE A DIFFERENCE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Mr. BARCIA. Mr. Speaker, education is a tool that informs and inspires each of us. And education is immensely influenced by the learned individuals who serve as instructors, teachers, and professors. One of the professors who was a mentor in my instruction was Dr. William S. Hoffman, who on January 1 will be retiring after 32 years at Saginaw Valley State University, my alma mater.

The gentleman has taught some of the most stimulating history classes known to any student. I know how vivid he made some of these events when I was his student. He not only made the event come back to life, he made sure that the significance of it lived on in our understanding and appreciation of what preceded us.

Dr. Hoffman was one of the three original faculty members of Saginaw Valley College, which later became Saginaw Valley State University. He was known for his expertise on Andrew Jackson, one of the key leaders of the Democratic party. Dr. Hoffman is someone who could easily be a member of any President's kitchen cabinet as his expertise provides a clarity of thought that truly allows us to learn from history.

Having taught at Wiley College in Texas, Appalachian State Teachers College in North Carolina, and Bay City Junior College, Delta College, and Saginaw Valley, he has certainly left his impression on great number of students. And with his publication of numerous articles, book reviews, and two books on North Carolina history, he has influenced countless others in appreciating portions of our national heritage.

Dr. Hoffman was certainly deserving of winning Saginaw Valley State University's first Landee Award for teaching excellence. But he will always be remembered as a man who knew history, who imparted its lessons by reliving it in his writings and instruction, and someone who could be counted upon to make a difference for a student, the highest accolade I believe there can be for any academic professional.

Mr. Speaker, as Dr. William S. Hoffman prepares to retire, and his many friends and colleagues at Saginaw Valley State University look forward to feting him prior to his departure, let me urge you and all of our colleagues to join me in wishing this man the very best as he earns his place in history, and moves forward to create even more in his retirement.

A TRIBUTE TO THE ST. ELIZABETH COMMUNITY HOSPITAL

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to recognize the Sisters of Mercy of Auburn in celebration of their 19th anniversary of health care ministry through St. Elizabeth Community Hospital, Red Bluff.

St. Elizabeth Community Hospital has been located in Red Bluff since 1906 when Mother Mary Joseph Bolan saw a need for health care and founded the hospital.

Over the past 90 years, St. Elizabeth has demonstrated dedicated service to the community in providing the highest caliber of health care and improving the quality of life and well-being for the families of northern California.

St. Elizabeth Community Hospital is an invaluable asset to the community, and reflects the talents and commitment of the Sisters, the physicians and employees.

Upon this noteworthy occasion, St. Elizabeth Community Hospital deserves the most sincere congratulations and best wishes for a future filled with continued success.